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Decision

Matter of: Saco Defense Corporation

File: B-283885

Date: January 20, 2000

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DIGEST

Evaluation was inconsistent with solicitation's evaluation scheme where, although solicitation provided that proposals would be evaluated for quality, including effectiveness of the total quality system and how well quality processes are controlled, agency evaluated awardee's proposal as equal to protester's (which included adequate information) under quality factor, notwithstanding that awardee's proposal provided little more information than the quality standard used.

DECISION

Saco Defense Corporation protests the U. S. Army Tank-Automotive and Armaments Command's (TACOM) award of a contract to Ramo Manufacturing, Inc., under request for proposals (RFP) No. DAAE20-98-R-0201, for M2 machine guns, stellite-lined M2 barrel assemblies, and M2 bolt sub-assemblies. Saco contests the evaluation of technical proposals and the resulting source selection.

We sustain the protest.

The solicitation, issued June 23, 1999, provided for award to be made on the basis of best value to the government, considering past performance, quality, small business participation, and price. When combined, the non-price evaluation factors were more important than price, while quality and past performance were significantly more important than small business participation. The solicitation further indicated

that price was not the most important consideration. RFP § M. The solicitation provided that proposals were to be assigned adjectival ratings of excellent/very low risk, good/low risk, adequate/moderate risk, marginal/high risk, or poor/very high risk for each non-price factor. RFP §§ M.1, M.2, M.3.¹

Five offerors submitted proposals in response to the solicitation. After conducting discussions with the offerors, TACOM requested and received revised final offers (RFO). Contracting Officer's Statement (COS) at 2-3. Both Saco's and Ramo's RFOs were rated good/low risk for quality and excellent/very low risk for past performance. Although Saco's RFO was rated as excellent for small business participation and Ramo's as only adequate in that area, Ramo's price [DELETED] was [DELETED] lower than Saco's price [DELETED]. Noting that small business participation was not heavily weighted under the stated evaluation approach, the source selection authority (SSA) concluded that Saco's advantage in this regard was not worth the price premium associated with its proposal and that Ramo's proposal instead offered the best value to the government. Source Selection Document (SSD) at 7-8. This protest followed the ensuing award to Ramo.

Saco challenges the evaluation under the quality factor. The solicitation provided for quality to be evaluated based on the "offeror's likelihood of only offering conforming material for acceptance" under the contract. RFP § M.1.1. According to the solicitation, "[t]he Quality element will be evaluated by reviewing the information furnished concerning the offeror's quality system. . . . Evaluation will consist of assessing the effectiveness of the total quality system, including how well the accuracy/precision of acceptance inspection equipment and all other processes are controlled." *Id.* In this regard, the RFP provided that the contractor "shall implement and maintain a quality system that ensures the functional and physical conformity of all products or services you furnish under this contract. Your quality system shall achieve (1) defect prevention and (2) process control, providing adequate quality controls throughout all areas of contract performance." RFP § E-7(a). Offerors were required to specify the quality standard--"based on (1) international quality standards . . . , or (2) military, or (3) commercial, or (4) national quality standards"--that their system complies with and "represent that your performance under this contract will be in conformance with your quality system." RFP §§ E-7(b), L.1.1(a). The RFP further required offerors to respond to the following:

(b) How is your System applied to all processes, *i.e.*, production, contracting, fabrication, processing, inspection, testing, maintenance, packaging, preservation, shipping, storage, buying, receiving, etc.?

¹ Under past performance, offerors could also be rated neutral/unknown risk in cases where they had no meaningful relevant record of past performance. RFP § M.2.1.

(c) How do you monitor/audit your system to assure effectiveness and continuous product improvement?

(d) What metrics do you use to track progress/status?

(e) How do you handle product deficiencies and implement corrective actions?

(f) Give examples/feedback on your customer satisfaction/market acceptance of products.

(g) How do you keep abreast of new technologies?

RFP § L.1.1. In addition, offerors were required to describe their:

- (1) "Calibration/Metrology and Acceptance Equipment" and how it works; and
- (2) control process, including the determination of what will be monitored, qualification of the process, training, qualification and recertification of personnel, determination of which requirements to flow-down to vendors, and utilization of generated data/information. RFP §§ L.1.2, .3.

TACOM rated Saco's proposal as good/low risk under the quality factor based on Saco's statement of compliance with International Organization for Standardization (ISO), International Quality System Standard 9001. TACOM also rated Ramo's proposal as good/low risk under the quality factor based on Ramo's statement of compliance with military quality standard MIL-Q-9858A. SSD at 5; Agency Report, Tab K16, Evaluation of Contractor Responses for Quality Element. Specifically, the SSA noted that:

[t]he team evaluated [Ramo's] . . . quality system as rated good, posing a low performance risk. They have complied with a MIL-Q-9858A quality system, however they are not [Contractor Performance Certification Program (CP)2] certified by the Government, nor have they received the Malcolm Baldrige [National Quality] Award. Little doubt exists that Ramo's quality system will allow successful performance of the required effort.

Id.

Saco asserts that it was improper to base the quality ratings only on the proposed quality standard and not to take into account the other aspects of a firm's approach to quality that the RFP indicated would be evaluated.

In reviewing protests against allegedly improper evaluations, our Office will examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP's stated evaluation criteria. Engineering and Computation, Inc., B-261658, Oct. 16, 1995, 95-2 CPD ¶ 176 at 2-3.

The evaluation here does not meet this standard. As noted, the solicitation provided for the quality rating to be based on “the information furnished concerning the offeror’s quality system,” with the agency “assessing the effectiveness of the total quality system, including how well the accuracy/precision of acceptance inspection equipment and all other processes are controlled.” RFP § M.1.1. Obviously, in order for the agency to evaluate the proposals in this manner, proposals had to include information bearing on the identified evaluation considerations. Toward this end, the RFP called for information describing numerous aspects of the offeror’s approach to quality, such as how their quality system was applied to all processes and how they handled product deficiencies and implemented corrective action. RFP §§ L.1.1, .2, .3.

Saco’s proposal included information addressing the various aspects of its quality system. For example, Saco described in some detail such elements of its proposed approach to quality as: [DELETED].

In contrast, Ramo’s response was significantly less detailed, largely consisting of general statements and references to undefined procedures and prior successful performance. For example, apparently in response to the requirement that it describe its approach to monitoring/auditing its system to assure effectiveness and continuous product improvement, Ramo stated in its proposal that [DELETED]. Similarly, apparently in response to the requirement that it describe the metrics used to track progress/status, Ramo stated that [DELETED]. Further, when advised by the agency that its response “[DELETED],” Letter from TACOM to Ramo (Sept. 21, 1999), Ramo responded that [DELETED].

We find that TACOM’s evaluation was inconsistent with the quality evaluation provisions in section M of the RFP. While the record indicates an intention on the part of the agency to consider the additional aspects of an offeror’s quality approach beyond merely the specified quality standard, Agency Report, Tab B, Sample Maturity Matrix, there is no evidence that the agency actually did so. In this regard, TACOM was fully aware of Ramo’s inadequate response to the quality requirements, as evidenced by the agency’s September 21 letter to Ramo requesting more information, but nothing in the source selection document indicates that this had any impact on the quality evaluation. In explaining Ramo’s good/low performance risk quality rating, the decision simply indicates that “[t]hey have complied with a MIL-Q-9858A quality system . . . Little doubt exists that Ramo’s quality system will allow successful performance of the required effort.” SSD at 5. Likewise, in explaining Saco’s good/low performance risk quality rating, the decision indicates only that “[t]hey have a certified ISO9001 quality system, and have demonstrated a commitment to customer satisfaction.” *Id.* The decision does not reference the missing information or identify the basis--other than the quality systems used--on which the evaluation conclusions were based. Rather, it appears that the quality factor rating was based only on the quality standards proposed; since the agency

considered Saco's and Ramo's quality standards essentially equivalent, it rated both proposals "good" under the quality factor.²

Ramo's identifying its quality system, along with the other general information provided, was not sufficient to permit the agency to evaluate Ramo's proposal in accordance with section M which, again, provided that the agency would assess "the effectiveness of the total quality system, including how well the accuracy/precision of acceptance inspection equipment and all other processes are controlled." The limited information furnished would not appear to provide a basis for judging the "effectiveness" of the system as implemented by Ramo, or to assess how well various quality processes are "controlled" by Ramo. The agency's conclusion that Ramo's proposal was "good," and that the two proposals were equal, under the quality factor therefore is not supported by the record, and we sustain the protest on this basis.

As an additional matter, Saco argues in its comments on the agency report that TACOM improperly evaluated Ramo's proposal as offering to comply with MIL-Q-9858A. Although Saco did not raise this argument in a timely manner, and it thus does not furnish a basis for sustaining the protest, we find that the argument has merit and thus bring it to TACOM's attention.³ Specifically, section E-7 of the

² TACOM found that the quality standard with which Ramo agreed to comply--MIL-Q-9858A--warranted a good rating because, as the agency explains, although MIL-Q-9858A has been canceled by the Department of Defense (apparently as part of its move towards use of commercial standards), MIL-Q-9858A remains a valid quality standard, recognized by the American Society for Quality (ASQ) and the Registration Authority Board, which is still being employed by many contractors. Indeed, according to the agency, MIL-Q-9858A in fact was a guide ("polestar") for the creation of ISO 9001. The agency disagrees with Saco's position that ISO 9001 is superior to MIL-Q-9858A as a quality standard. Declaration of TACOM Quality Manager at 2; COS at 3-4. Although Saco in its initial protest furnished a chart in which the two quality standards are compared and which generally indicates that there are a number of ISO 9001 provisions that are not present in MIL-Q-9858A, the agency has responded with two charts (one prepared by the agency and another reportedly prepared by the ASQ) which indicate that MIL-Q-9858A addresses most of the areas covered by ISO 9001. Declaration of TACOM Quality Manager, attachs. 4, 5. Based on this evidence, we do not conclude that in this case a contractor conforming to ISO 9001 is inherently, significantly more likely to offer conforming material for acceptance under the contract than a contractor conforming to MIL-Q-9858A.

³ Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1999), a protest that is not based on a solicitation impropriety, must be filed no later than 10 days after the basis of protest is known or should have been known or 10 days after a required debriefing. Where a protester files a timely protest, and later supplements it with new protest grounds, those new grounds must independently satisfy our timeliness (continued...)

solicitation ("Higher Level Contract Requirement, TACOM Quality System Requirement") required that offerors specify the quality standard with which they would comply. Ramo's proposal specified [DELETED]. Since the record indicates that the agency viewed compliance with [DELETED] as warranting only an adequate/moderate risk quality rating, Agency Report, Tab B, Sample Maturity Matrix, assigning a good/low risk rating based on compliance with MIL-Q-9858A appears to be unreasonable given the ambiguity in Ramo's proposal as to its commitment to comply with [DELETED].

As noted above, the source selection decision was based on the determination that Saco's and Ramo's proposals were equal with respect to quality and past performance, and that Saco's advantage with respect to small business participation, a factor which was "not heavily weighted," was offset by Ramo's advantage with respect to price. In view of our conclusion that the record does not support the rating of the proposals as equal under the quality factor, we cannot conclude that the price/technical tradeoff and resulting source selection decision were reasonably based. In these circumstances, we find that there was a reasonable possibility that Saco was prejudiced by the agency's actions. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F. 3d 1577, 1581 (Fed. Cir. 1996).

We recommend that TACOM reevaluate proposals consistent with the RFP and our decision. If Ramo's proposal is no longer most advantageous, we recommend that the agency terminate Ramo's contract for convenience. We also recommend that Saco be reimbursed the reasonable costs of filing and pursuing its protest, including attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1).

The protest is sustained.

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requirements. Speedy Food Serv., Inc., B-258537.3, B-258537.5, May 2, 1995, 95-2 CPD ¶ 111 at 7-8. Saco received the document which first furnished the basis for this argument--a copy of the relevant portion of section E-7 of Ramo's proposal--in an early document production on November 12, but did not raise the argument until it filed its comments on the agency report on November 29, more than 10 days later. This argument therefore is untimely.